

Application No.: 09/986,975

REMARKS

The Examiner has maintained the rejection of independent claims 1 and 2 under 35 U.S.C. § 103 as being unpatentable over Wulf in view of Admitted prior art, Cotton et al. or Thuma '242, '837. The Examiner's rationale for maintaining this rejection is set forth on pages 2-3 of the outstanding Office Action. Specifically, the Examiner broadly interprets blade 114 by itself (Figure 9 of Wulf) as having protrusions 122/124 extending only upwardly, arguing that open claim language "comprising" does not prevent the agitator of Wulf from having an additional disk.

In relation to the Examiner's reference to Figure 41 of Applicants' drawings (admitted prior art) as disclosing the claimed blade (*see* page 3, lines 2-6 of outstanding Office Action), it is noted that Figure 41 is directed to a washing apparatus and would not be suggestive of structural changes to the food processor of Wulf. Indeed, as noted in Applicants' previous response, this is one of the structural distinctions that differentiates the food processor art and washing apparatus art. Specifically, Wulf expressly discloses that "blades 132, 134 ... extend ***downward*** and outward from the ends of the base 130 [so that] blended and processed items are dislodged and forced upward from the bottom of the container" (col. 8, lines 20-30). Wulf therefore suggests that a downwardly extending blade is a fundamental characteristic of a blender to enable proper processing of food, so that Wulf would *teach away* from any proposed modification hinted by the Examiner based on Figure 41 of Applicants' drawings.

Nonetheless, though it is believed that the Examiner has unreasonably interpreted the claims/prior art, in order to expedite prosecution, claims 1 and 2 have been amended to recite "the washing tank includes a cover having a hole for draining wash water in the washing tank" so as to expressly embody a structural feature(s) which is exclusively part of a washing apparatus

Application No.: 09/986,975

and NOT a food processor so as to remove Wulf entirely from any alleged relevance to the present application. As the prior art rejection relies on Wulf as a primary reference, it is respectfully submitted that the pending rejection is no longer valid and that none of the cited prior art, alone or combination, disclose or suggest the claimed combination.

The Examiner is directed to MPEP § 2143.03 under the section entitled "All Claim Limitations Must Be Taught or Suggested", which sets forth the applicable standard for establishing obviousness under § 103:

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. (citing *In re Royka*, 180 USPQ 580 (CCPA 1974)).

In the instant case, the pending rejection does not "establish *prima facie* obviousness of [the] claimed invention" as recited in claims 1 and 2 because the proposed combination fails the "all the claim limitations" standard required under § 103.

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as claims 1 and 2 are patentable for the reasons set forth above, it is respectfully submitted that all claims dependent thereon are also patentable. In addition, it is respectfully submitted that the dependent claims are patentable based on their own merits by adding novel and non-obvious features to the combination.

Based on the foregoing, it is respectfully submitted that all pending claims are patentable over the cited prior art. Accordingly, it is respectfully requested that the rejection under 35 U.S.C. § 103 be withdrawn.

Application No.: 09/986,975

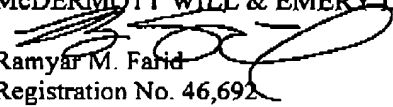
Regarding the rejection under 35 U.S.C. § 112, first paragraph (written description), the Examiner alleges that "applicant's original disclosure is textually silent with respect to" the "protrusions extending only upwardly therefrom" claim language. However, it is respectfully submitted that that "[a]n applicant shows possession of the claimed invention by describing the claimed invention with all of its limitations using ... *figures*," *Lockwood v. American Airlines, Inc.*, 41 USPQ2d 1961, 1966 (Fed. Cir. 1997). Accordingly, as Applicants' figures clearly illustrate "protrusions extending only upwardly therefrom" and support a sufficient amount of scope thereof, it is respectfully submitted that the Examiner's position is improper and that the claims have sufficient description in the originally filed specification to satisfy § 112, first paragraph requirements. Based on the foregoing, it is respectfully requested that this rejection be withdrawn.

CONCLUSION

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,
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